IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.579 OF 2004
IN
NOTICE OF MOTION NO.2368 OF 2002
IN
SUIT NO.2695 OF 2002

Marian A. Fernandes .. Appellant

v/s.

1. Pramod Mukund Ravrane & anr. .. Respondents

Mr.D.C.Shah for appellant.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 17th September, 2004

P.C.

Heard Mr.D.C.Shah, the learned counsel for the appellant and perused the impugned order.

2. In the impugned order, the learned motion Judge recorded, ".... defendant No.2 has expressed his willingness to deposit in the court the amount of Rs.1,16,000/- which appears to have been paid by the plaintiff to defendant No.1."

3. The learned counsel for the appellant submits that the aforesaid statement recorded by the learned Judge is incorrect. He submits that when court observed that if the defendant No.2 was not ready and willing to deposit the amount of

Rs.1,16,000/-, the Court Receiver shall be appointed, the statement as recorded in the order was made on behalf of defendant No.2.

4. We are unable to accept the submission of the learned counsel for the appellant. The learned motion Judge has recorded the willingness of the defendant No.2. If it was not correct, the only course open to the appellant was to apply for review of the order before the learned Judge that admittedly has not been done. The legal position is well settled that the statement in the judgment/order is presumed to be correctly recorded. If it is not correct, the course upon to the party is to apply to the same Judge for correction.

5. No case for interference is made out. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)